

U.S. Fish and Wildlife Service

Draft

Information Quality Guidelines

Draft guidelines issued by the U.S. Fish and Wildlife Service (FWS) for ensuring and maximizing the quality, objectivity, utility, and integrity of information disseminated by FWS.

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PART I INTRODUCTION AND PURPOSE

The mission of the U.S. Fish and Wildlife Service (FWS) is working with others to conserve, protect, and enhance fish, wildlife and plants and their habitats for the continuing benefit of the American people. FWS is issuing these draft guidelines to describe FWS policy and procedures for reviewing and substantiating the quality of information it disseminates, so that persons affected by the distribution of information by FWS may seek and obtain, where appropriate, correction of information that they believe may be in error or otherwise not comply with the law.

PART II BACKGROUND, TERMINOLOGY, AND APPLICABILITY

In December 2000, Congress, through the Paperwork Reduction Act of 1995, required federal agencies to publish their own guidelines for ensuring and maximizing the quality, objectivity, utility, and integrity of information that they disseminate (44 U.S.C. 3502). The amended language is included in Section 515(a) of the Treasury and General Government Appropriations Act of 2001. The Office of Management and Budget (OMB) published guidelines in the Federal Register on February 22, 2002 (67 FR 8452), directing agencies to address the requirements of the law. The Department of the Interior announced adoption of the OMB guidance in a Federal Register notice May 24, 2002. In June 2002, the Department of the Interior instructed bureaus to prepare separate guidelines on how they would apply the Act. This draft document provides guidance within the FWS and informs the public of FWS policies and procedures to conform with these requirements.

The guidelines supplement existing procedures for commenting on data or correcting data. The guidelines may be revised periodically to best address, ensure, and maximize information quality. Factors such as homeland security, threats to public health, statutory or court-ordered deadlines, or other time constraints may limit or preclude applicability of these guidelines.

II-1 To whom do these guidelines apply?

These apply to members of the public and stakeholders with whom FWS does business.

II-2 When do these guidelines become effective?

These guidelines apply to information disseminated on or after October 1, 2002. Archived records of information disseminated and subsequently archived are exempt from the Guidelines. Information disseminated prior to October 1, 2002, but not archived and still being used in a decision-making process is not exempt from these guidelines.

II-3 Do these guidelines change requirements of the public?

These guidelines do not impose new requirements or obligations on the public.

II-4 What do these guidelines cover?

These guidelines apply to FWS sponsored information disseminated to the public. For the purpose of these guidelines, "information" includes any communication or representation of knowledge such as facts or data, in any medium or form. "Disseminated to the public" includes publication (electronic or written) to a community or audience. "Sponsored information" is information FWS initiates or sponsors for distribution to the public. As examples: FWS sponsors information disseminated to the public when FWS prepares and distributes information to support or represent the FWS viewpoint, to formulate or support a FWS regulation, to distribute FWS guidance, or otherwise put forth a bureau decision or position. FWS sponsors information when information prepared or submitted by an outside party is distributed by FWS in a manner that reasonably suggests that FWS endorses or agrees with it, or is using it to support the FWS' viewpoint.

II-5 Where are the terms in this guidance further defined?

The terms "quality, utility, objectivity, integrity, information, government information, information dissemination product, dissemination, influential, and reproducibility" are defined in OMB's guidelines published in the Federal Register on February 22, 2002. Where a different or modified definition of any of these terms is applicable in a specific context, or associated with a specific information category, that definition will be provided in the context to which it applies.

II-6 What data is not considered information under these guidelines?

Data not considered "information" does not apply to these guidelines. Data not sponsored by FWS does not apply. Data not disseminated to the public by FWS is not considered under these guidelines.

Examples of information not covered by these guidelines:

- Testimony and information presented to Congress as part of legislative or oversight processes, including drafting assistance in connection with proposed or pending legislation, that is not simultaneously disseminated to the public;
- Internet hyperlinks;
- Opinions (where FWS presentation makes it clear that what is being offered is someone's opinion rather than fact or the views of FWS), are not FWS positions;
- Correspondence to and from an individual and FWS concerning the status of the individual's particular issue, permit, land or case is not considered information disseminated to the public;
- Archival records, including library holdings;
- Information distributed only to government employees or FWS contractors or grantees;
- Communications between agencies, including management, personnel and organizational information, even if the information becomes public at some point;

- FWS responses to requests for agency records pursuant to the Freedom of Information Act (FOIA), the Privacy Act, the Federal Advisory Committee Act (FACA), or other similar laws; Solicitations (e.g., program announcements, requests for proposals);
- Press releases, fact sheets, press conferences or similar communications in any medium that announce, support the announcement or give public notice of information FWS has disseminated elsewhere;
- Distributions of information by outside parties unless FWS is using the outside party to disseminate the information on its behalf (and to clarify applicability of the guidelines, FWS will indicate whether distributions are initiated or sponsored by FWS by using disclaimers to explain the status of the information);
- Research by federal employees and recipients of FWS grants, cooperative agreements, or contracts, where the researcher (and not FWS) decides whether and how to communicate and publish the research, does so in the same manner as his or her academic colleagues, and distributes the research in a manner that indicates that the research does not represent FWS's official position (for example, by including an appropriate disclaimer). Distribution of research in this manner is not subject to these guidelines even if FWS retains ownership or other intellectual property rights because the Federal government paid for the research;
- Public filings including information submitted by applicants for a permit, license, approval, authorization, grant, or other benefit or permission; information submitted voluntarily as part of public comment during rulemaking;
- Subpoenas or information for adjudicative processes, including criminal or civil action or administrative enforcement action, investigation, or audit.

II-7 What happens if information is initially not covered by these guidelines, but FWS subsequently disseminates it to the public?

If a particular distribution of information is not covered by these guidelines, the guidelines may still apply to a subsequent distribution of the information in which FWS adopts, endorses or uses the information to formulate or support a regulation, guidance, or other decision or position.

II-8 How does FWS ensure the objectivity of information that is not covered by these guidelines?

FWS strives for objectivity of information not subject to these guidelines by presenting the information in an accurate, clear, complete, and unbiased manner. FWS is committed to ensure accurate, reliable, and unbiased information. All information disseminated to the public must be approved prior to its dissemination by the appropriate program and/or Regional Office and must satisfy OMB and Departmental guidelines. The approval process will include documentation of the specific information quality standards used in producing the information in a way that substantiates the quality, utility, objectivity, and integrity of the information in a manner that conforms to OMB and Departmental guidelines.

II-9 How does FWS ensure the utility and integrity of information that is covered by these guidelines?

Data is subject to security controls designed to ensure that it cannot be compromised or contaminated. These include quality review/quality control procedures, laboratory protocols, study protocols, peer review, and senior management and oversight.

PART III INFORMATION QUALITY STANDARDS

To the greatest extent practicable and appropriate, information that FWS disseminates is internally reviewed for quality, including objectivity, utility and integrity, before such information is disseminated. FWS adopts as performance standards, the basic guidance (and definitions) published by OMB on January 3, 2002, reissued February 22, 2002, and adopted by DOI in a Federal Register notice May 24, 2002, and the DOI Final Notice.

III-1 How does FWS ensure and maximize the quality of disseminated information?

FWS ensures and maximizes the quality of information by using policies and procedures appropriate to the information product. These include senior management oversight and controls, peer review process, communications, product review process, surnaming, and error correction. Higher levels of scrutiny are applied to influential scientific, financial or statistical information, which must adhere to a higher standard of quality.

III-2 How does FWS define influential information for these guidelines?

"Influential" means scientific, financial or statistical information with a clear and substantial impact on important public policies or important private sector decisions. For example, FWS will generally consider the following classes of information to be influential: information disseminated in support of the Director's decisions or actions (e.g., rules, substantive notices, policy documents, studies, guidance), and issues that are highly controversial, or have cross-agency interest or affect cross-agency policies.

III-3 How does FWS ensure and maximize the quality of "influential" information?

FWS emphasizes that influential information, such as analytic results, have a high degree of transparency regarding the source of the data, assumptions employed, analytic methods applied, and statistical procedures employed. Original and supporting data may not be subject to the high and specific degree of transparency required of analytic results, but FWS will apply relevant policies and procedures to achieve reproducibility to the extent practicable, given ethical, feasibility, and confidentiality constraints. Peer review, and public comment periods, are key tools.

III-4 What is the context in which the information deemed "influential" will be changed?

FWS uses the best available data in making its decisions, from materials from stakeholders, the public, and the scientific community. The most recent or thorough information will be utilized where available. FWS will rely on older information where the conditions of the land and/or resources have not substantially changed or where collection of more recent information would not be justified by cost or anticipated yield and value.

III-5 Does FWS ensure and maximize the quality of information from external sources?

FWS will take steps to ensure that the quality and transparency of data and information provided by external sources, e.g., state and local governments, is sufficient for the intended use. Further consultation, cooperation and communication with States and other governments, the scientific and technical community and other external data providers are needed to address application of these guidelines to external sources.

PART IV INFORMATION QUALITY PROCEDURES

Each FWS office will incorporate the information quality principles outlined in these guidelines into existing review procedures as appropriate. Offices and Regions may develop unique and new procedures, as needed, to provide additional assurance that the information disseminated by or on behalf of their organizations is consistent with these guidelines.

IV-1 Who may request a correction of information?

Any individual or person may request a correction of information from FWS, if that individual or person is an "affected person" pursuant to these guidelines. "Affected persons" are persons who may benefit or be harmed by the disseminated information.

IV-2 What should be included in a request for correction of information?

A request for correction of information should include the following:

- Identification of the request as a matter regarding information disseminated by FWS that the person believes does not comply with OMB/DOI Information Quality Guidelines;
- Name and contact information. Organizations submitting a complaint should identify an individual, to serve as a contact;
- Description of the information the person believes does not comply with FWS guidelines, including specific citations, if applicable; and
- Explanation of how the information does not comply with FWS guidelines and, if possible, a recommendation of corrective action.

IV-3 Will FWS consider all requests for correction of information?

Yes. FWS will consider all requests submitted pursuant to these guidelines and consider it for correction unless the request itself is deemed "frivolous," including those made in bad faith or without justification, deemed inconsequential or trivial, and for which a response would be duplicative of existing processes, unnecessary, or unduly burdensome on the Agency.

IV-4 What type of requests would be considered frivolous, duplicative, burdensome, unnecessary or unduly burdensome?

FWS may consider a request for correction (or complaint) frivolous if it could have been submitted as a timely comment in the rulemaking or other action but was submitted after the comment period. FWS may consider a request for correction frivolous if it is not from an "affected person," and for these guidelines "affected persons" are persons who may benefit or be harmed by the disseminated information, including persons who are seeking to address information about themselves as well as persons who use information. FWS may consider each complaint on its merit. Complaints may be dismissed by FWS if it is determined that the complaint is duplicative, burdensome, and disruptive if it was already subject to a separate process for information with a public comment process. For example, FWS rulemaking includes a comprehensive public comment process and imposes a legal obligation on FWS to respond to comments on all aspects of the action. These procedural safeguards assure a thorough response to comments on quality of information. The thorough consideration required by this process meets the needs of the request for correction of information process.

If FWS cannot respond to a complaint in the response to comments for the action (for example, because the complaint is submitted too late to be considered along with other comments or because the complaint is not germane to the action), FWS at its discretion will consider whether a separate

response to the complaint is appropriate.

IV-5 How will FWS respond to a request for correction of information?

All complaints about Service information quality standards will be routed to the Correspondence Control Unit (CCU), which will route complaints to the originating offices. CCU will notify the complainant of receipt of the complaint within 5 business days.

If a request for correction of information is appropriate for consideration, FWS will review the request within 45 business days and issue a decision. FWS will send the results of this decision to the requester, with an explanation for the decision. If a request is approved, FWS will take corrective action. FWS may elect not to correct completed products on a case-by-case basis due to priorities, time constraints, or resources. Corrective measures may include personal contacts via letter or telephone, form letters, press releases or postings on the FWS website to correct a widely disseminated error or address a frequently raised request. Corrective measures, where appropriate, will be designed to provide reasonable notice to affected persons of any corrections made.

IV-6 Will FWS reconsider its decision on a request for the correction of information?

Requesters of corrective actions who are dissatisfied with a FWS decision regarding their request may appeal the decision. Appeals for reconsideration should contain the following:

- Indication that the person is seeking an appeal of a FWS decision on a previously submitted request for a correction of information, including the date of the original submission and date of FWS decision;
- Indication of how the individual or organization is an “affected person” under the provisions of these guidelines;
- Name and contact information. Organizations submitting an appeal should identify an individual, as a contact;
- Explanation of the disagreement with the FWS decision and, if possible, a recommendation of corrective action; and
- A copy of the original request for the correction of information.

IV-7 How does FWS process requests for reconsideration of FWS decisions?

Requests for reconsideration of FWS decisions will be logged and tracked by the FWS’ Control Correspondence Unit. Appeals will be forwarded to the appropriate FWS program office or region that has responsibility for the information in question. The responsible program office or regional executive will make the final decision on the appeal.

IV-8 What is the reporting requirement for oversight of these guidelines?

FWS will submit reports to the Department of the Interior for consolidated submission to OMB on an annual basis beginning January 1, 2004, and the report will include the number, nature and resolution of complaints received by FWS under the Data Quality Act provisions.

PART V LEGAL EFFECT

These guidelines are intended only to improve the internal management of FWS relating to information quality. Nothing in these guidelines is intended to create any right or benefit, substantive or procedural, enforceable by law or equity by a party against the United States, its agencies, its

offices, or another person. These guidelines do not provide any right to judicial review.